

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

WILLIAM LINABURG,

Plaintiff,

v.

CIVIL ACTION NO. 1:13CV177
(Judge Keeley)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION AND DISMISSING THE CASE
WITH PREJUDICE FROM THIS COURT'S ACTIVE DOCKET

Pursuant to 28 U.S.C. §636(b)(1)(B), Rule 72(b), Federal Rules of Civil Procedure and Local Court Rule 4.01(d), on July 31, 2013, the Court referred this Social Security action to United States Magistrate James E. Seibert ("Magistrate Judge Seibert") with directions to submit proposed findings of fact and a recommendation for disposition.

On June 11, 2014, Magistrate Judge Seibert filed his Report and Recommendation ("R&R")(dkt. no. 12), and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e), Fed. R. Civ. P., to file any written objections with the Clerk of Court within fourteen (14) days after being served with a copy of the R&R. He further directed the parties that failure to file objections would result in a waiver of the right to appeal from the judgment of this

**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, REMANDING THE CASE AND DISMISSING
THE CASE WITH PREJUDICE FROM THIS COURT'S ACTIVE DOCKET**

Court. As of this date, the parties have not filed any objections and the time in which to do so has expired.

Upon consideration of Magistrate Judge Seibert's recommendation and having received no written objections,¹ the Court accepts and approves the R&R and **ORDERS** this civil action disposed of in accordance with the recommendation of the magistrate judge. Accordingly,

1. Linaburg's motion for Summary Judgment (dkt. no. 8) is **GRANTED-IN-PART**;
2. The Commissioner's motion for Summary Judgment (dkt. no. 10) is **DENIED**;
3. The case is **REMANDED** to the Commissioner for further consideration pursuant to the recommendations contained in the R&R; and
4. This civil action is **DISMISSED WITH PREJUDICE** and **RETIRED** from the docket of this Court.

¹ The parties' failure to object to the Report and Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, REMANDING THE CASE AND DISMISSING
THE CASE WITH PREJUDICE FROM THIS COURT'S ACTIVE DOCKET**

Pursuant to Fed.R.Civ.P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this Order to counsel of record.

DATED: July 7, 2014

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE